

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7141

Joint Petition of Consolidated Edison                     )  
Communications, LLC and RCN Corporation                )  
for Approval of a Transfer of Control                     )

Order entered: 2/17/2006

**I. INTRODUCTION**

On December 16, 2005, Consolidated Edison Communications, LLC ("CECI") and RCN Corporation ("RCN") (together the "Petitioners") filed a Telecommunications Merger and/or Acquisition Request for Approval Form ("Application") requesting authority from the Vermont Public Service Board ("Board"), pursuant to 30 V.S.A. § 107, for approval of the indirect transfer of control of CECI through a stock transaction occurring at the parent company level.

On January 18, 2006, the Vermont Department of Public Service ("Department") filed a letter with the Board recommending the Board approve the transfer of control because the proposed transaction would not detrimentally impact Vermont consumers or cause them inconvenience or confusion. The Department further recommended the Board approve the Application without further investigation or hearing.

The Board has reviewed the Application and the accompanying documents and agrees that approval should be granted without hearing.

**II. FINDINGS OF FACT**

Based upon the Application and accompanying documents, we hereby make the following findings of fact.

1. CECI was issued a Certificate of Public Good (CPG No. 609) to provide telecommunications services in Vermont on December 11, 2000. CECI is an indirect subsidiary of Consolidated Edison, Inc. ("CEI"). Application at 1.
2. RCN is not authorized to provide telecommunications services in Vermont. Application at 1.

3. Pursuant to a stock purchase agreement between RCN and CEI, RCN will acquire 100% of the outstanding stock of CECI's direct parent company: Consolidated Edison Holding Company. Application at Attachment 1.

4. Following the transaction, CECI plans to seek approval to change its name, but will continue to offer the same tariffed services and rates. Accordingly, the transfer will not cause any inconvenience for Vermont consumers. Application at 2.

5. The proposed transaction will promote the public interest by allowing CECI increased access to capital, which may strengthen the ability of CECI to compete in the telecommunications market in Vermont. Application at Exh. 2.

### **III. DISCUSSION**

The proposed transaction requires approval by the Board under 30 V.S.A. § 107. This statute conditions approval of a proposed transfer of control upon findings that the transfer of control will promote the public good (30 V.S.A. § 107). This standard is met in this case.

Under 30 V.S.A. § 107(a), "[n]o company shall directly or indirectly acquire a controlling interest in any company subject to the jurisdiction of the [Board] . . . without the approval of the [Board]." "Controlling interest" is defined as "ten percent or more of the outstanding voting securities of a company" or such other interest as the Board determines "to constitute the means to direct or cause the direction of the management or policies of a company." 30 V.S.A. § 107(c)(1).<sup>1</sup> In order to approve the acquisition of such a controlling interest, the Board must first find that it will "promote the public good." 30 V.S.A. § 107(b).

After reviewing the Application, we conclude that 30 V.S.A. § 107 applies because the transaction contemplated will result in RCN becoming the ultimate parent company of CEC by acquiring 100% of the stock of CECI's direct parent company. We further conclude that the transfer of control will not affect the services that CECI currently provides to customers in Vermont. CECI will continue to offer service at the same rates, terms and conditions. The proposed transaction will also allow CECI to strengthen its financial position, which may, in

---

1. The statute also provides that "[t]he presumption that ten percent or more of the outstanding voting securities of a company constitutes a controlling interest may be rebutted by a company under procedures established by the board by rule." 30 V.S.A. § 107(c)(1).

turn, result in enhanced competition among providers of telecommunications services in Vermont. The resulting indirect transfer of control, therefore, will promote the public good. For all of these reasons, we conclude that the proposed transaction meets the standards set forth in 30 V.S.A. § 107 and should be approved.

#### **IV. CONCLUSIONS**

The indirect transfer of control of CECI should be approved because the transaction will promote the public good of the State of Vermont and will not result in obstructing or preventing competition. 30 V.S.A. § 107(b).

#### **V. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The transfer of control of Consolidated Edison Communications, LLC, will promote the public good and, therefore, is approved.
2. Petitioner shall file a letter notifying the Board of the completion of the transaction within one week of such completion.

DATED at Montpelier, Vermont, this 17<sup>th</sup> day of February, 2006.

<u>s/James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/John D. Burke</u>	)	

OFFICE OF THE CLERK

Filed: February 17, 2006

Attest: s/Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us).*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*